UPDATE

1-15

Judge puts amendment on hold

Temporary order issued hours before law would take effect

By **Louis Aguilar**
Gazette Telegraph

DENVER — Colorado's controversial Amendment 2 will not become law until at least 5 p.m. today, following an order by a Denver District Court judge.

Judge Jeffrey Bayless issued a temporary restraining order at 5:30 p.m. Thursday — just 6½ hours before the measure was to take effect — that precludes Gov. Roy Romer from signing the law until the close of business today.

Bayless has scheduled a hearing for 4 p.m., when he will decide whether to issue a preliminary injunction that could keep the amendment off the books until a lawsuit challenging the amendment's constitutionality is settled. Bayless will also decide that case, yet to be scheduled for trial.

The amendment prohibits the state and local governments from passing laws that ban discrimination against homosexuals based on their sexual orientation. It would also overturn such laws in the cities of Denver, Boulder and Aspen. The group seeking to quash the amendment is composed of eight homosexuals, a heterosexual with AIDS and Denver, Boulder and Aspen.

Bayless must find that Colorado homosexuals are in danger of "real, immediate and irreparable" injury and have a reasonable chance of winning their lawsuit before he could justify issuing an injunction, attorneys have said.

A visibly angry Bayless accused the lawyers seeking the injunction of "backing him into a corner" because they waited weeks after the approval of the amendment on Nov. 3 to make their request for an injunction.

"I rest the entire responsibility for this delay . . . entirely on the plaintiffs," Bayless said. "I am unhappy making this decision."

When there was brief applause following his decision, Bayless lashed out: "Oh, stop that! This court will not stand for that."

The outburst capped four days of sometimes emotional testimony that covered a wide range of territory on homosexuality, bigotry, civil rights, the influence of the religious

See **AMENDMENT 2**/A16

■ Senator proposes bill to disarm amendment/**B5**

Rescued

Katie Beers, 10, is led from the Hauppauge, N.Y., police station Wednesday after she was found in an elaborate bunker under the garage of the family friend who reported her missing Dec. 28. John Esposito was ordered held on $500,000 bail Thursday.NATION/**A6**

NATION

▶ **AIDS DEATHS TO RISE:** Federal health officials predict that at least 330,000 Americans will have died of AIDS by 1995, although the epidemic's spread is beginning to slow./**A7**

WORLD

▶ **MARINES FIGHTING LOSING BATTLE:** Marines are confiscating weapons by the truckload in Somalia, but experts say U.S. troops are fighting a losing battle unless peace and stability can be established./**A9**

▶ **HONECKER LEAVES GERMANY:** Former East German President Erich Honecker flew to Chile Thursday after a German court decided he was too ill to stand trial for ordering the shooting of people trying to flee the former Communist state./**A11**

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BUSINESS

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LOCAL FORECAST

Today: Times of clouds and sunshine. High 43.
Tonight: Patchy clouds. Low 22.
Saturday: Mixture of clouds and sunshine. High 45, low 18.
Sunday: Mainly cloudy, colder, chance of a few flurries. High 35, low 15.
Monday: Partly sunny and chilly. High 37, low 17.
Tuesday: Increasing cloudiness, still chilly. High 35, low 19.

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Amendment 2/Gays say First Amendment rights would be denied

Bayless: Judge says he was backed into corner.

From A1

right in politics and even discussion about whether Colorado has become "the hate state," as some Amendment 2 critics have dubbed it.

Gays contend the amendment puts them in immediate danger because it takes away their protection from discrimination in housing and employment.

The state essentially counters that since federal civil rights laws do not define homosexuals as an identifiable minority group, Colorado can't extend to them those protections because they would amount to special rights.

In closing arguments, lawyer Jean Dubofsky, the former Colorado Supreme Court justice who represented Amendment 2 opponents, said if the measure is made law it would restrict homosexuals from participating in the political process and would deny them freedom of expression under the First Amendment to the U.S. Constitution.

"Amendment 2 will embody in this state's basic charter the right to discriminate," she said.

Dubofsky said gays and lesbians have never sought what Colorado for Family Values, the amendment's author, said were "special rights."

"There is simply no crisis in family values in Colorado nor do gays, lesbians and bisexuals have special rights in Colorado," she said.

Lawyers for the state attorney general's office, who are defending the amendment, say the measure is the will of the people and only forbids "special protection" for homosexuals while not affecting their civil rights.

Though the state's attorneys tried to distance themselves from Colorado for Family Values during this week's hearing, assistant attorney general John Dailey said in his closing arguments Thursday that some of the Springs-based group's material "has some wild things in it" about homosexuals and does contain "some bigotry."

But he said that does not mean those who voted for the amendment condone discrimination or violence against gays.

"We think there's a difference between irrational prejudice and moral values," Dailey said. "Does it make people intolerant because they have values? There is a moral component here."

Dailey pointed out that many witnesses — including some of the homosexual plaintiffs — admitted that voters could have approved of Amendment 2 for a variety reasons.

"All Amendment 2 does is put the state of Colorado on the level of federal civil right laws," he said.

The Associated Press contributed to this report

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